UNITED NATIONS

General Assembly

FORTY-SEVENTH SESSION

Official Records

SIXTH COMMITTEE
18th meeting
held on
Wednesday, 21 October 1992
at 3 p.m.
New York

SUMMARY RECORD OF THE 18th MEETING

Chairman: Mr. ZARIF (Islamic Republic of Iran)

later: Mrs. FLORES (Uruguay)
(Vice-Chairman)

CONTENTS

ANNOUNCEMENT CONCERNING SPONSORSHIP OF DRAFT RESOLUTIONS

AGENDA ITEM 133: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

This record is subject to correction.
Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, Room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/47/SR.18
27 October 1992

ORIGINAL: ENGLISH

92-57144 6091S (E)

The meeting was called to order at 3.05 p.m.

ANNOUNCEMENT CONCERNING SPONSORSHIP OF DRAFT RESOLUTIONS

1. The CHAIRMAN announced that the Russian Federation had become a sponsor of draft resolution A/C.6/47/L.2/Rev.1, Thailand had become a sponsor of draft resolution A/C.6/47/L.4, and the Libyan Arab Jamahiriya and Senegal had become sponsors of draft resolution A/C.6/47/L.5.

AGENDA ITEM 133: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/47/33, A/47/67, A/47/60-S/23329, A/47/516)

2. Mr. KABIR (Bangladesh) said the principles embodied in the Charter of the United Nations had guided the comity of nations through the difficult times of confrontation and mistrust which had marked the cold war. The end of that period had ushered in an era of hope for a new world order characterized by democracy, freedom, peace and security. Unfortunately, regional conflicts, racial and ethnic tensions and other undesirable irritants had emerged to cloud mankind's common dream of a trouble-free world. The nations of the world were looking to the United Nations to contain and resolve those problems and to allow world-wide peace and security to thrive for the benefit for all peoples. In order to achieve those objectives, the Organization needed to undertake new initiatives and define innovative remedies. It could only do so, however, if Member States were firm in their determination to strengthen their Organization and, in view of the changed realities of the day, to look afresh at the provisions of the Charter.

3. The wind of freedom and democracy currently sweeping across the world must also be permitted to touch the great institution of the United Nations, whose Members must be given equal opportunity for democratic participation in its activities. The new international reality should also be reflected in the composition of the Security Council. Such changes, however, should not compromise the effectiveness of that organ but rather enhance its capacity to arrive at swift and just decisions in times of sudden crisis. In that connection, consideration should be given to ways of achieving a realistic balance in the use of the power of veto in order to make the actions of the Council more transparent.

4. The Secretary-General's timely report, "An agenda for peace", contained proposals concerning preventive diplomacy, peacemaking, peace-keeping, peace-building, and cooperation with regional arrangements and organizations for the maintenance of international peace and security. His delegation welcomed the Secretary-General's views on the role of regional organizations in securing and maintaining peace and security. Regional organizations, arrangements and associations were uniquely placed not only to reduce tension and initiate appropriate moves towards the resolution of local conflicts but also to strengthen regional security. Such organizations, moreover, had been

(Mr. Kabir, Bangladesh)

moulded through the years into cohesive structures encompassing socio-economic cooperation and development within member countries, and in some instances had exercised a moderating influence on arms control within their regions. His delegation accordingly welcomed working paper A/AC.182/L.72 entitled "Draft declaration on the improvement of cooperation between the United Nations and regional organizations" (A/47/33, para. 39). During the deliberations on the paper, individuals with expertise and experience in that field should be invited to assist the Committee.

5. Bangladesh was particularly interested in working paper A/AC.182/L.73 on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/47/33, para. 109). The sanctions imposed on Iraq by Security Council resolution 661 (1990) had had an adverse impact on his country's frail economy. Along with 21 other countries which were seriously affected by the sanctions, his Government had appealed without success to the President of the Security Council for assistance under Article 50 of the Charter. Before Member States were called upon to confront a similar crisis in future, serious consideration should be given to the establishment of a mechanism for providing swift and adequate assistance under Article 50. Financial institutions such as IMF and the World Bank could be requested to provide assessments of the financial loss suffered. Such a mechanism would encourage third party States to cooperate more readily in the implementation of sanctions in future.

6. While his delegation was inclined to support the suggestion that the Secretary-General should be authorized to seek legal advice from the International Court of Justice on specific legal issues, consideration should be given to the question of whether such authorization was permissible under the Charter, and, if so, what its implications would be for the United Nations and for the relationship between the Organization and the International Court of Justice. The prior views of the International Court of Justice might facilitate a consensus on that question.

7. The recent avalanche of changes in the international arena demanded that the Organization should adapt itself in order to face the new challenges effectively. The enlargement of the community of nations, the appearance of strong and independent-minded regional organizations, the stark economic differences between North and South, and, in particular, the increasing number of least developed countries, were valid reasons for a review of specific provisions of the Charter. His delegation therefore welcomed all initiatives aimed at strengthening the United Nations and allowing it to continue to perform its functions satisfactorily through to the twenty-first century.

8. Mr. ELARABY (Egypt) said he would like to thank all delegations that had expressed their sympathy with Egypt on the occasion of the recent earthquake and to convey Egypt's condolences to Colombia on the occasion of the earthquake there.

(Mr. Elaraby, Egypt)

9. The momentous developments that had taken place in the international arena in recent years had been reflected in the character, norms and concepts of international relations and had been accompanied by serious efforts to implement the provisions of the Charter and lay the foundations for a new international order. They also required a comprehensive review of the working methods of the United Nations, a thorough examination of the Organization's ability to meet its Charter obligations and proposals for coping with its increasing responsibilities.

10. The Charter contained general provisions under which the required modifications and reforms could be carried out without encroachment on those of its provisions that were of a constitutional character. Over the years, Egypt had made specific proposals for improving the performance of the United Nations through the modification of the rules of procedure of its bodies. A number of such amendments had been made in the past, the best known being those introduced by General Assembly resolution 377 A (V) of 3 November 1950, the "Uniting for peace" resolution, under which rules 8 (b) and 9 (b) had been added to the rules of procedure of the General Assembly. What was now required was an effort to introduce real change in the working methods of certain organs by rationalizing their rules of procedure. In the same connection, the Security Council should consider giving final form to its provisional rules of procedure, particularly since the obstacles to doing so in the past had largely lost their importance, and such a step would increase its effectiveness and credibility.

11. A concerted effort should be made to ensure that resolutions were honoured, and it might be useful to consider the principle of the accountability of States vis-à-vis the implementation of resolutions. Current practice was for the Secretary-General to report on those States that had informed him that they had given effect to resolutions while, in accordance with the principle enunciated in Article 2, paragraph 5, of the Charter, reports of the Secretary-General should also refer to States that had not implemented resolutions and give the reasons for such non-implementation.

12. His delegation had already expressed its support for the proposals made in the Secretary-General's report entitled "An agenda for peace" for strengthening the role of the Organization in the fields of preventive diplomacy, peacemaking and peace-keeping, subject to adherence to the purposes and principles of the Charter and respect for the national sovereignty and independence of States. The Secretary-General had urged Member States to accept the general jurisdiction of the International Court of Justice by the year 2000, and that proposal was worthy of support. The Secretary-General should be authorized to seek advisory opinions from the Court so as to be able to play a more active role in preventive diplomacy. The report of the Secretary-General fell within the purview of the General Assembly and, out of respect for the principles of transparency and participation in international relations, the Assembly should subject it to searching examination. An open-ended working group should be established to consider the proposals it

(Mr. Elaraby, Egypt)

contained and any other proposals that might be made, and its report should be considered by the General Assembly within a very short period of time at a special session convened for that purpose.

13. With the approaching fiftieth anniversary of the United Nations, it would be appropriate to give serious consideration to the establishment of a preparatory committee to conduct a thorough and objective review of the Charter, not for purposes of its amendment, since there were no real reasons for that, but in the light of the fundamental changes that had taken place in international relations since its adoption. His delegation was not calling for a resolution amending the provisions of the Charter in a general manner but for a truly serious study of the matter given that the item had been included in the agenda of the General Assembly since 1955.

14. In view of the expanding role of the Security Council and the greatly increased membership of the United Nations, calls continued to be made for an increase in the number of members of the Council. In any expansion of the Security Council, account must be taken of regional as well as international forces since, with an end to the problems caused by the East-West rivalry, current indications were that future disputes would be of a predominantly regional character.

15. In the Special Committee's discussion of working paper A/AC.182/L.73 on assistance to third States affected by the application of sanctions, the important concept had emerged of sharing the costs of the collective security system so that its burdens would not fall on a limited number of States. It was essential to establish a mechanism to ensure an appropriate response to requests from affected States for assistance under Article 50 of the Charter. His delegation therefore awaited with interest the revised paper on the matter that would be discussed by the Special Committee at its next session.

16. While the draft declaration on the improvement of cooperation between the United Nations and regional organizations, submitted by the Russian Federation, provided a sound basis for the elaboration of rules governing such cooperation so that regional organizations could play an effective role in the maintenance of regional peace and security, it would be premature to adopt a draft declaration at the current stage and the subject required further study.

17. The draft United Nations rules for the conciliation of disputes between States submitted by Guatemala contained many important ideas that merited further study. However, its highly detailed character deprived it of the flexibility required in addressing such an important means for the settlement of international disputes.

18. Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel) observed that in his report entitled "An agenda for peace" (A/47/277-S/24111, para. 38) the Secretary-General again confirmed his proposal that he should be authorized to request advisory opinions from the International Court of

(Mr. Fleischhauer)

Justice. At its 164th meeting, on 18 February 1992, the Special Committee had requested the Legal Counsel to explain the considerations underlying that proposal. His statement was reproduced in paragraph 31 of the Special Committee's report (A/47/33). During the ensuing discussion, some representatives had requested further clarification on a number of specific questions, which were mentioned in paragraph 32 of the report.

19. The first of those questions concerned the meaning of the phrase "within the scope of their activities" in Article 96 of the Charter, and whether the authorization of the Secretary-General to seek an advisory opinion from the Court would encompass the entire range of his activities or only those activities related to the settlement of disputes between States. The phrase in question was embodied in Article 96, paragraph 2, of the Charter, which empowered the General Assembly to authorize other organs of the United Nations and specialized agencies to request advisory opinions on "legal questions arising within the scope of their activities". In comparison with the wording in paragraph 1 of Article 96 which granted the General Assembly and the Security Council the right to request advisory opinions on "any legal question", the phrase "within the scope of their activities" laid down an overall limit on what might be requested of the Court. The purpose was to exclude questions which did not fall within the scope of activities of the authorized organ. Indeed, all the organs and specialized agencies that had so far been authorized to request advisory opinions had been authorized on a general basis under the terms of Article 96, paragraph 2, i.e., expressly within the scope of their activities.

20. Since the Secretary-General was head of the Secretariat, the scope of his activities was coextensive with that of the Secretariat. It went further, however, and included, according to Article 98 of the Charter, those tasks which were entrusted to the Secretary-General by the General Assembly, the Security Council, the Economic and Social Council or the Trusteeship Council. Those tasks included the exercise of good offices and mediation in disputes between States.

21. Functionally, the authorization of the Secretary-General to seek advisory opinions should encompass the full range of his activities since that would be consistent with the practice of the General Assembly in the previous authorizations. However, the authorization of the Secretary-General would be particularly useful in respect of disputes in which the Secretary-General had been asked to play a role, such as the exercise of his good offices or mediation; the extension of that authorization to the Secretary-General would add to the means of peaceful solution of international crisis situations. It was for the General Assembly to decide what should be the scope of an eventual authorization and whether, in respect to disputes, it should be general or on an ad hoc basis.

22. The next question in paragraph 32 was whether the consent of the parties to a dispute to the request for an advisory opinion extended to the actual

(Mr. Fleischhauer)

formulation of the question addressed to the Court and how the advisory role of the Court could relate to the role of the Legal Counsel.

23. Since the objective was to reach a solution acceptable to the parties and since it was important to have their cooperation, the contents of the question posed should therefore not be objectionable to the parties. They would have to agree not only to the request as such, but also to the formulation of the question addressed to the Court.

24. As to the role of the Legal Counsel in that regard, he was directly responsible to the Secretary-General for matters entrusted to him. In previous advisory proceedings, irrespective of which organ had initiated them, the role of the Legal Counsel had been to represent the Secretary-General in making written submissions and oral presentations to the Court. That would also be done in advisory proceedings initiated by the Secretary-General. The Legal Counsel also provided, inter alia, legal advice to the Secretary-General. The advisory role of the International Court of Justice in that regard was, however, of a different character. The advisory opinion of the Court was authoritative by virtue of the high office it held.

25. The next question in paragraph 32 was whether it was appropriate to grant such authorization, which so far had only been granted to international governmental bodies, to an individual.

26. As far as appropriateness was concerned, he would limit himself to reminding the Committee that the authorization was not being sought for just any individual. It was being sought for the individual to whom the community of States, as represented by the Security Council and the General Assembly, had entrusted the position of Secretary-General. In a more legal vein, he wished to add that Article 96, paragraph 2, of the United Nations Charter did not lay down any qualification or restriction on the nature of the organ.

27. In that context, he also wished to refer to an argument which contended that a discrepancy existed between Article 65 of the Statute of the Court and Article 96 of the Charter. It was argued that while Article 96 referred to "organs", pursuant to Article 65 of the English text the Court could entertain requests from "bodies" only, which would include collegiate organs, but exclude the Secretary-General, who was not a "body" but an individual. The view of the Legal Counsel was that Article 96, paragraph 2, referred to two categories of entities: "organs of the United Nations and specialized agencies". Since the specialized agencies were not organs of the United Nations, Article 65 used the term "bodies" to embrace both categories. That could be seen clearly from the equally authentic French text of those articles. Article 96, paragraph 2, referred to "tous autres organes de l'Organisation et institutions spécialisées". The French text of Article 65 thus used the words: "organe ou institution". Article 103 of the Rules of Court was also consistent in that regard and used "organe ou

(Mr. Fleischhauer)

institution" to embrace both categories. Consequently, he did not think that Article 65 of the Statute of the Court was in any way inconsistent with Article 96, paragraph 2, of the Charter.

28. The next question in paragraph 32 was whether, in case the dispute had not been resolved despite a request by the Secretary-General for an advisory opinion, and the dispute had been referred to the General Assembly or the Security Council, the latter organs would be bound by the advisory opinion.

29. On that question, generally speaking, the essence of the Court's advisory opinions was that they were advisory and had no binding effect. The Court's advisory function was therefore different from its function in contentious cases. An advisory opinion requested by the Secretary-General would be given to him for his own use. It would have no binding effect on the parties concerned, the General Assembly or the Security Council.

30. Since the opinion was only advisory, the requesting organ remained free to give effect to the opinion by any means open to it, or not to do so. An advisory opinion nevertheless enjoyed the authority and prestige of the Court. But unless and until a decision had been taken by the General Assembly or by the Security Council to endorse an advisory opinion, the opinion remained advisory and not binding on any body.

31. Lastly, paragraph 32 stated that further clarification was needed as to whether the authorization would be granted on an ad hoc or permanent basis.

32. It would be for the General Assembly to decide whether the authorization would be general or on an ad hoc basis. The General Assembly might, at first, only provide for the possibility of ad hoc authorization. Although that would not meet the ultimate goal of the Secretary-General's suggestion, it would nevertheless be a step in the right direction.

33. If only an ad hoc authorization was provided for in a resolution by the General Assembly, it would remain to be seen what use the General Assembly would make of such a device.

34. Ms. BOUM (Cameroon) said the unprecedentedly large number of States which had participated in the latest session of the Special Committee as observers had reflected the conviction that that Committee was the ideal forum for considering all questions relating to the strengthening of the role of the Organization in the peaceful settlement of disputes and the maintenance of international peace and security. In a period of transition to a new world order, the Special Committee must work on new instruments which would make the United Nations more effective and enable it to adapt to the new realities.

35. Everyone agreed on the need to increase the effectiveness of the United Nations, but views diverged widely on the best way to do it. Her delegation

(Ms. Boum, Cameroon)

believed that the new world order could not be envisaged without a review of the Charter so as to eliminate provisions that had become obsolete and correct its imperfections. In that respect, as noted by the Secretary-General in "An agenda for peace", the new spirit of commonality must be propelled by the will to take the hard decisions demanded by the current time of opportunity (A/47/277-S/24111, para. 6).

36. With regard to the draft declaration on the improvement of cooperation between the United Nations and regional organizations, some of the suggestions, particularly in paragraph 9, had already evoked a favourable reaction in the subregion of Central Africa. The 11 States of that subregion, with United Nations assistance, had recently established a permanent advisory committee on security questions; measures would be taken to establish a training centre for peace-keeping personnel, conclude a non-aggression pact and operate an inter-State command centre for crisis management. It was regrettable that the draft declaration did not refer to the need for cooperation in the economic and social fields, in line with the comprehensive view of security in the declaration adopted by the participants at the Summit Meeting of the Security Council and "An agenda for peace".

37. With regard to the working paper entitled "New issues for consideration in the Special Committee", she noted that "An agenda for peace" contained ideas already developed by the Special Committee and new ideas that the Special Committee could usefully consider, particularly with regard to the non-military aspects of security; the Special Committee should consider ways and means of revitalizing the United Nations so that it would deal with those aspects in an effective manner.

38. The working paper on assistance to third States affected by the application of sanctions confirmed the need for a review of the Charter, and in particular the strengthening and rationalization of the application of Articles 49 and 50. The Special Committee should be competent to consider that question. The ideas contained in the working paper entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security" should be considered in greater depth by the Special Committee, and it should give priority to the question of expansion of the Security Council on the basis of equitable geographical distribution.

39. Mrs. KUPCHINA (Belarus) said there was no doubt that all the work of the Special Committee was influenced by the far-reaching changes that had occurred in the international political arena, and in particular by the Summit Meeting of the Security Council. "An agenda for peace" outlined four main areas of activity which were critical for future progress in the Special Committee's work. The Special Committee had an unprecedented opportunity to intensify its efforts to fulfil its mandate in the interests of the United Nations, the international community and individual States.

40. The United Nations had demonstrated that it could be a real and universal instrument for solving global problems. The end of the cold war enabled it to

(Mrs. Kupchina, Belarus)

concentrate on solving the practical problems of realizing the ideals embodied in the Charter. At the same time, the instruments used by the international community needed to be substantially modernized; it was particularly important to review the Charter to bring it in line with the new realities, and bring all its basic provisions into operation; the Special Committee needed to find ways of adapting the United Nations system and also enhancing the effectiveness of the Organization by improving coordination between its bodies.

41. Regional organizations, as a vital element of the collective security system, were capable of playing a significant role in halting and also in preventing regional conflicts. Regional stability was an inseparable part of world stability, and further work on the draft declaration on cooperation between the United Nations and regional organizations should be a priority task of the Special Committee, so as to give real content to Chapter VIII of the Charter. However, many paragraphs of the draft declaration were formulated too rigidly; their provisions were too imperative in nature and did not always accord with the legal nature of the draft, or with the situation of regional organizations which took up issues relating to the maintenance of international peace and security on an optional basis. Her delegation shared the view that the question of the specific form of the document shoud be considered at a later stage.

42. The time had clearly come to take practical steps to implement the Secretary-General's recommendations on measures to protect States from special economic difficulties associated with the application of sanctions. Her delegation welcomed the draft rules for the conciliation of disputes between States, which were particularly relevant at a time when violent conflicts continued to rage in some regions and innocent people, including children and women, were victims. Her country had frequently expressed its support for strengthening the work of the United Nations in conducting peace-keeping operations in general and, in particular, it was prepared to participate actively in seeking peaceful ways of resolving the Nagorno-Karabakh conflict and had agreed to host an international conference on the problem at Minsk.

43. The distribution of the Handbook on the Peaceful Settlement of Disputes between States should be accelerated, and the mechanisms for the implementation of the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security should be brought into effect. The Special Committee should pay greater attention to ways of influencing States which had initiated military action and were not implementing relevant Security Council decisions, expanding the peacemaking mandate of the Secretary-General, carrying out the preventive functions of the United Nations and conducting international campaigns against violence and armed conflict.

44. In the context of the radical changes in the world, above all the transition in East-West relations from bloc confrontation to partnership and

(Mrs. Kupchina, Belarus)

cooperation on the basis of the principles of democracy, respect for human rights and observance of the norms of international law, the necessary conditions were being created for a real strengthening of the role of the United Nations in the maintenance of international peace and security. Her country favoured a broad interpretation of the concept of international security: the world community was encountering new threats to security including environmental problems, terrorism, the international drug trade and crises in the economic, social and humanitarian fields.

45. In a new era of international cooperation, her delegation was convinced that the Charter would play a positive role as a pivotal document of the new world order. The question of the Charter should be considered in very close conjunction with the problem of strengthening the role of the Organization. The Charter in itself could not guarantee a strengthening of the new role of the United Nations: only a global strategy of international coordination based on the political will of States could withstand the threats to international security. Her country, as a founding member of the United Nations, remained committed to the Charter, which had proved its viability and had not exhausted its potential to enhance the effectiveness and strengthen the role of the United Nations.

46. Mr. VIO (Chile) said that the great changes that had occurred on the international scene offered an opportunity to build a more just and peaceful world that would abide by the norms of international law and support the United Nations.

47. In connection with working paper A/AC.182/1992/CRP.2 entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security" (A/47/33, para. 123), his delegation believed that it was essential to secure a balance between the various United Nations bodies in order to be able to maintain world peace and security. The Secretary-General, in times of crisis, should be able to put forward new solutions so as to enable States to progress towards peace and the United Nations to respond more effectively to the needs of the new political and social situation. He should be authorized to seek advisory opinions from the International Court of Justice, which, in the case of conflicts, would require the prior authorization of the parties, as a means of enabling him to better meet the requirement of contributing to the solution of international crises, without fundamentally changing the structure of the United Nations.

48. On the question of the settlement of disputes between States, international law imposed the obligation to resort to peaceful means, but did not impose specific methods of settlement; the choice was left to the parties to a dispute. A belief in the peaceful settlement of all disputes would strengthen the climate of confidence within and among regions of the world. In that context his delegation welcomed the draft rules for the conciliation of disputes between States.

(Mr. Vio, Chile)

49. His delegation attached great importance to cooperation between the United Nations and regional organizations and believed that the draft declaration on that subject was a valuable contribution to the work of the United Nations in that respect; the Special Committee should take into account the experience of regional bodies, such as the Organization of American States, in conflict prevention and limitation. A balance must be achieved between the principle that peace was one and indivisible and therefore concerned the community of States as a whole, and the principle of the autonomy of regional organizations.

50. Chile continued to attach great importance to the question of assistance to third States affected by the application of sanctions and was encouraged by the inclusion of the subject in "An agenda for peace".

51. Mrs. Flores (Uruguay), Vice-Chairman, took the Chair.

52. Mr. HYON (Democratic People's Republic of Korea) said that, while the end of the cold war had ushered in a new era of rapprochement and cooperation in international relations, endeavours to build a free and peaceful world were being undermined by the aspirations of some countries to world domination. The international community expected the United Nations to play a pivotal role in safeguarding world peace and security, but in order to do so the Organization must be restructured and democratized in the interests of ensuring the independence, sovereignty and equal status of all its Member States. It was also an essential premiss of the democratization of the United Nations that the overall authority of the General Assembly would not be undermined, and that steps would be taken to ensure that the Security Council was accountable to the General Assembly. With regard to the composition of the Security Council, his delegation considered that a country that still failed to accept any responsibility for aggression and war crimes committed during the Second World War was not qualified to become a permanent member of the Council. Japan must sincerely apologize for the crimes it had perpetrated in the past and make full compensation for the sufferings it had inflicted on other countries before it could aspire to become a permanent member of the Security Council. His delegation believed that the United Nations should live up to the expectations of its Member States by eradicating all the unjust and contradictory remnants of the cold war.

53. Mr. SALEEM (India) expressed appreciation for the statement made by the Legal Counsel and proposed that it should be circulated to all the members of the Committee.

54. Document A/AC.182/L.72 (A/47/33, para. 39) proposed a universal model under which regional organizations would play an effective role in preventing disputes and maintaining peace and security in the region, with broad scope for fact-finding and enforcement action. The document appeared to be based on the premise that States should seek to establish regional organizations in accordance with their obligations under the Charter of the United Nations. The legal position concerning regional organizations was contained in

(Mr. Saleem, India)

Chapter VIII of the Charter and particularly in Article 52, paragraph 1. While the Charter did not preclude the existence of regional arrangements or agencies for dealing with matters relating to the maintenance of international peace and security, it did not impose on States any obligation to establish such organizations. Once regional organizations had been established, however, they must conform to the norms set out in the Charter; in particular, any powers granted to regional agencies must in no way impair the competence of the Security Council under Articles 34 and 35 of the Charter, and no enforcement action could be taken by such agencies without the authorization of the Security Council. The role of regional organizations in the maintenance of international peace and security was thus clearly limited; accordingly, it was not legally possible to envisage their being more effective in the area of peace and security than they were entitled to be under the Charter. Since the functions, powers and structure of a regional organization would depend entirely on the political will of the States which established it, it was unrealistic to envisage a universal model for all regions. His delegation therefore recommended that a cautious approach should be taken in the matter.

55. As a country which had been directly affected by the Gulf crisis, and also to some degree by the current Yugoslav crisis, India had an immediate interest in working paper A/AC.182/L.73 (A/47/33, para. 109), of which it was a sponsor. His delegation called for the establishment of a mechanism for the implementation of Article 50 of the Charter so that timely and effective assistance could be provided to States affected by sanctions imposed by the Security Council. At a suitable stage, a fund could be set up through mandatory contributions to assist such States.

56. Working paper A/AC.182/1992/CRP.2 (A/47/33, para. 123) contained many useful ideas, including the question of changing the composition of various United Nations bodies, such as the Security Council, and the democratization of the process through which decisions were adopted by United Nations bodies. His delegation urged the Special Committee to give careful consideration to the working paper.

57. As to working paper A/AC.182/L.65 and Corr.1 (A/47/33, paras. 95 to 108), most of the proposals which it contained had been incorporated in document A/AC.182/L.72 and the Handbook on the Peaceful Settlement of Disputes adopted by the General Assembly in 1991.

58. Turning to document A/45/742 (A/47/33, para. 132), he said that while conciliation was one of the methods of pacific settlement of disputes referred to in Article 33 of the Charter, State practice to date had not clearly reflected an abiding interest in that method, such that the United Nations should consider adopting detailed rules for the conciliation of disputes. Clearly, the parties to a dispute could adopt their own rules of procedure if they could agree on a method. Furthermore, conciliation, like the good offices of the Secretary-General and mediation, must be voluntary and must be

(Mr. Saleem, India)

carried out with the prior consent of the parties to a dispute. Lastly, any rules for conciliation must be flexible; otherwise, the method would lose its attractiveness for the parties. Accordingly, his delegation proposed, as an alternative, a set of broad guidelines should be developed, rather than rigid rules.

59. Mr. FSADNI (Malta) said his delegation wished to reiterate its concern regarding the potential threat that an increasingly active Security Council might pose to the relationship between that body and the General Assembly. At the same time, positive developments within the Security Council would require the revitalization of the General Assembly itself. That concern appeared to be shared by a number of other delegations.

60. The Special Committee's consideration of the proposal by the Secretary-General that he should be authorized to request advisory opinions from the International Court of Justice had confirmed that the suggestion, although not without support, was not uncontroversial. His delegation, however, could go along with the proposal.

61. The Maltese Government was proud of its commitment to the regional organizations of which it was a member. Its experience in those organizations reinforced its belief in the need for cooperation between the United Nations and regional organizations, and in that connection the Maltese delegation had put forward a proposal at the 1992 Summit of the Conference on Security and Cooperation in Europe to designate the Conference as a regional organization under the terms of Chapter VIII of the Charter of the United Nations. That designation and its implications would be assessed by his delegation in its statement under the appropriate agenda item. In that connection, his delegation welcomed the working paper on cooperation between the United Nations and regional organizations submitted by the Russian Federation. In another context, it also looked forward with interest to the submission, at the Special Committee's session, of the revised versions of the working paper on new issues for consideration by that Committee and of the draft rules for the conciliation of disputes between States.

62. His delegation had been pleased to note the Special Committee's positive reception of working paper A/AC.182/L.73/Rev.1, submitted by a group of delegations, including his own, regarding assistance to third States affected by the application of sanctions under Chapter VII of the Charter. Paragraph 115 of the Committee's report rightly noted the broad support given to many of the basic concepts of that paper. His Government had never wavered in the fulfilment of its obligation under Article 25 of the Charter to accept and carry out the decisions of the Security Council in respect of sanctions, an obligation which on several occasions had led to considerable economic hardships for his country. It was probable that the end of the cold war would continue to extend the activities of the Security Council. Such activities would inevitably cause economic problems to innocent third States, and his delegation therefore joined with others in urging the need for appropriate

(Mr. Fsadni, Malta)

arrangements to ensure provision for assistance in such cases. Articles 49 and 50 of the Charter were based on the concept of equitable sharing of the economic burdens arising from the application of economic sanctions. The Special Committee should now focus its attention on the procedures for verifying the economic losses incurred by third States, and the problematic issue of the funding of compensation.

63. The question of the composition of the Special Committee had been raised in paragraph 16 of its report. In view of that Committee's practice of accepting all requests for observer status from Member States, and of permitting their participation on a virtually equal basis, his delegation could see no reason for the continued restrictions on membership of the Special Committee.

64. Mr. NEGA (Ethiopia) said it was to be hoped that the current unprecedented increase in the membership of the United Nations would be reflected in a greater democratization of the Organization. His delegation believed that the Special Committee had a significant role to play in the revitalization of the Organization, and to that end should be adapted to existing circumstances by, among other things, the expansion of its membership and the establishment of balance in the discharge of its mandate.

65. His delegation welcomed the publication of the Handbook on the Peaceful Settlement of Disputes between States and working paper A/AC.182/L.72, submitted by the Russian Federation, containing the draft declaration on cooperation between the United Nations and regional organizations (A/47/33, para. 39), which would serve as a sound basis for the further elaboration and encouragement of regional arrangements and agencies in international affairs in general and in the maintenance of peace and security in particular. The experience gained in earlier years had revealed the enormous potential of such mechanisms and had prompted greater interest in their application.

66. The reference in the fourth preambular paragraph of the draft declaration to flexible coordination and effective action by regional and subregional organizations reflected the spirit of Article 52 of the Charter; as noted in the Secretary-General's report "An Agenda for Peace" (A/47/277-S/24111, para. 61), the Charter deliberately provided no precise definition of regional arrangements and agencies, thus allowing flexibility in their establishment and use. Experience had shown that regional arrangements could be of a permanent nature, or could be established on an ad hoc basis in order to deal with specific local disputes and conflicts. However, the draft declaration sought to limit the scope of application of regional entities and his delegation therefore considered that it should be studied further, with a view to producing a final text that would promote the role of regional arrangements and agencies.

67. With regard to the working paper on assistance to third States affected by sanctions under Chapter VII of the Charter, he said that Ethiopia shared

(Mr. Nega, Ethiopia)

the concern of those States. The working paper did not make concrete proposals, and a timely solution should be found which would address not only existing difficulties but also those which might arise in the future as a result of further actions by the Security Council in the exercise of its mandate under Chapter VII.

68. Mr. YAMAMOTO (Japan), speaking in exercise of the right of reply, said that, with reference to the statement made by the representative of the Democratic People's Republic of Korea, his Government had frequently expressed its regret and deep concern over Japan's past conduct towards the other countries of the region and its desire to improve relations with those countries, including by means of financial compensation. Japan would continue to promote regional prosperity. Talks were currently under way with a view to the normalization of relations between Japan and the Democratic People's Republic of Korea, and the issues to which the representative of that country had referred would be settled through those discussions.

69. Mr. HYON (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that while the Japanese Government had indeed apologized for the unspeakable crimes which Japan had committed against other Asian peoples, its words had not been reflected in deeds. During the negotiations to which the Japanese representative had referred, his Government had provided data concerning the suffering and the losses inflicted on its country by Japan, but the Japanese Government had not responded. If Japan wished to play a credible political role in the contemporary world, its statements must be reflected in reality. Only then could the peoples of Asia and the Pacific believe that Japan had truly overcome its past.

The meeting rose at 5.15 p.m.